

INSTRUCTIONS AND FORM FOR COMPLAINT (CUSTODY ACTION)

The forms are related to specific South Dakota Codified Laws (SDCL) concerning child custody matters. You can find these laws on the South Dakota Legislature website. If you have any legal questions, it is highly recommended that you consult with an attorney. Court staff are unable to provide legal advice or assist with form completion. For specific questions related to the forms, you can also contact the Legal Form Help Line at 1-855-784-0004 or email UJS staff at ujssrlhelp@uj.s.state.sd.us.

To Complete this form, you will need to:

1. Complete the caption of the Complaint.
 - a. Enter the name of the County you are filing in.
 - b. List the Judicial Circuit number of the county. You may find your judicial circuit number on the UJS website under the [court finder page](#).
 - c. Enter your name on the line above Plaintiff.
 - d. Enter the other parents name as the Defendant.
 - e. You can leave the line for the Case Number blank. That will be provided to you by the Clerk of Court at the time of filing.
2. Complete the remainder of the information on the lines provided throughout the form and checking appropriate boxes when prompted. Depending on how you complete this form, you may need copies of certain documentation when filing this complaint.
3. If there have been any prior proceedings regarding the children, such as a child support order, you will need to attach any order that has been filed to this complaint.
4. Date and sign.

STATE OF SOUTH DAKOTA

IN CIRCUIT COURT

COUNTY OF _____

_____ JUDICIAL CIRCUIT

| | |
|---|---|
| <p>_____</p> <p>Plaintiff</p> <p style="text-align: center;">v.</p> <p>_____</p> <p>Defendant</p> | <p>Case No.: _____</p> <p style="text-align: center;">COMPLAINT (CUSTODY ACTION)</p> |
|---|---|

1. Plaintiff's full legal name is _____.
2. The Plaintiff's date of birth is _____.
3. Plaintiff is a resident of _____ County, State of _____.
4. Defendant's full legal name is _____.
5. Defendant's date of birth is _____.
6. Defendant is a resident of _____ County, State of _____.
7. Mother's full maiden name as it appears on the child(ren)'s birth certificate(s) is:
_____.
8. Is Plaintiff an active-duty member of the armed forces? Yes _____ No _____
9. Is Defendant an active-duty member of the armed forces? Yes _____ No _____
10. The parties were never married, but have ____ child(ren) born or adopted to them:
(list the child(ren) born or adopted of the parties)

| Name of Child on Birth Certificate | Child's Date of Birth | City, County, and State of Birth |
|------------------------------------|-----------------------|----------------------------------|
| | | |
| | | |
| | | |

7. Father is the biological father of the above-named child(ren) as he has **(check all that apply)**:

- Father has signed an Affidavit of Paternity agreeing he is the biological father of the above-named child(ren) and the Affidavit complies with SDCL 25-8-50;
- Submitted to a DNA test performed by a testing laboratory and with certified documentation that complies with SDCL 25-8-7.1 to 25-8-7.3, inclusive, verifying that he is the child(ren)'s biological father;
- Father is listed as the natural father on the child(ren)'s birth certificate; and/or
- Father does not contest that he is the biological father of the above-named child(ren).

8. During the past five years the child(ren) have lived with the following individuals at the times and places indicated below:

| Name of Person Lived With | County/State | Dates |
|---------------------------|--------------|-------|
| | | |
| | | |
| | | |

9. Regarding the parentage, custody of support of the child(ren) there: **(check one)**

- Has not been any prior court proceedings; or
- Has been prior court proceedings that took place in _____ County, in the State of _____ and in the year of _____. I have attached all orders in those proceedings.

10. Other than the parties, no one has ever had legal custody of any of the child(ren) except _____ (if not applicable, write "none"). **Attach all orders regarding custody of minor child(ren).**

11. Regarding custody, the Plaintiff alleges it would be in the best interests of the child(ren) as follows: **(Check one of the following)**

Both parties are fit and proper persons to share the joint legal custody of the child(ren), with _____ **(list Plaintiff or Defendant)** having primary physical custody, subject to reasonable parenting time rights with _____ **(list Plaintiff or Defendant)**; or

_____ **(list Plaintiff or Defendant)** is the fit and proper person to have sole legal and physical custody of the minor child(ren), subject to parenting time with the _____ **(list Plaintiff or Defendant)** as follows: _____

_____ ;or

Both parties are fit and proper persons to share the joint legal and physical custody of the minor child(ren), with the parents sharing the duties and responsibilities of parenting the child(ren), the child(ren) residing no less than 180 nights per calendar year in each parent's home and the parents dividing the expenses of the child(ren) in proportion to their incomes; or

Other _____

12. Regarding child support matters, including but not limited to daycare and health insurance, the Plaintiff requests the following:

Child support has never been established and needs to be established in this action.

Child support matters have been established and we do not wish to modify.

WHEREFORE, Plaintiff prays for Judgment as follows:

1. That Father be determined to be the legal father of the minor child(ren);
2. That legal and physical custody of the minor child(ren) as well as the parenting plan be established as requested herein;
3. That if requested, child support be established; and
4. For such other and further relief as may be equitable and just.

I declare under penalty of perjury under the law of South Dakota that the foregoing is true and correct.

Signed on the _____ day of _____, _____ at _____.
(Date) (Month) (Year) (City or other location, and State)

Plaintiff's Signature

Print Name

Mailing Address

City, State, Zip

Telephone Number